

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claim 1 is currently being amended. Support for the amendment to claim 1 can be found at least in the specification as originally filed in paragraph 0057. New claims 19 and 20 have been added. New claim 19 is based on claims 1 and 13. New claim 20 is based on claims 1, 8 and 9. No new matter is being added. Claims 1-20 are now pending in this application.

Supplemental Amendment

The present Amendment is supplemental to the Amendment filed on December 15, 2010, where all of the arguments from the Amendment filed on December 15, 2010 are incorporated herein. The claims are now further amended, and further patentability arguments provided below.

Advisory Action

As an initial matter, applicants submit that the Advisory Action dated December 17, 2010 is improper. The Amendment filed on December 15, 2010, was in response to the Non-Final Action mailed September 30, 2010. Thus any Action from the Patent Office in response to the Amendment filed on December 15, 2010, which continued to reject the claims, should have been either another Non-Final Action, or a Final Action, but not an Advisory Action.

Accordingly, the Amendment filed on December 15, 2010, along with the present Supplemental Amendment, should be considered by the Patent Office, and the amendments therein entered and considered.

Examiner Interview

Applicants appreciate the Examiner Interview for discussions February 22 and 23, 2011, with Examiner Feeney, the Interview Summary of which is of record in this application.

Applicants further appreciate the acknowledgement by Examiner Feeney that, as noted above, the Amendment filed on December 15, 2010, was in response to the Non-Final Action mailed September 30, 2010, and thus any Action from the Patent Office in response to the

Amendment filed on December 15, 2010 should have been either another Non-Final Action, or a Final Action, but not an Advisory Action.

Applicants still further appreciate the discussions with Examiner Feeney regarding potentially allowable subject matter. In accordance with this discussion, applicants amend independent claim 1, and present new independent claims 19 and 20. Discussion regarding independent claims 1, 19 and 20 follow.

Rejections under 35 U.S.C. §§ 102 and 103

Claims 1, 3, 4, 6, 7, 13, 14 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,953,707 to Huang et al. (“Huang”) in view of U.S. Patent 6,609,101 to Landvater et al. (“Landvater”). Claims 2 and 8-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Landvater, further in view of U.S. Patent 5,765,143 to Sheldon et al. (“Sheldon”). Claims 5 and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Landvater, further in view of Official Notice. Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Landvater, further in view of U.S. 2003/0130883 A1 to Schroeder et al. (“Schroeder”). Applicants respectfully traverse these rejections for at least the following reasons.

Independent claim 1

Independent claim 1 has been further amended to recite “causing, during the current product sales promotion, a computer calculation of a product demand level over a remaining period of the current product sales promotion for stores associated with at least one distribution center based on an outlook model and the point of sale data, wherein the product demand level is initially calculated based on point of sale data from an earlier part of the current product sales promotion, and then the product demand level is revised based on point of sale data from a later part of the current product sales promotion.” Huang and Landvater further fail to disclose this feature of claim 1.

Huang fails to disclose the feature of claim 1 where the product demand level for stores associated with at least one distribution center is initially calculated based on point of sale data from an earlier part of the current product sales promotion, and then the product

demand level is revised based on point of sale data from a later part of the current product sales promotion. Rather in Huang the demand during a sales promotion is determined based on past POS data from a past promotion. Huang determines the demand level for a promotion prior to the promotion based on past POS data from a different promotion, and does not suggest in any manner revising his demand estimates during the promotion itself based on POS data collected during the promotion itself. Huang does not provide a fluid real-time approach as is the case in claim 1, where revisions to the demand level may be made during the promotion as POS data for the promotion is collected. Thus, Huang cannot disclose the product demand level for stores associated with at least one distribution center is initially calculated based on point of sale data from an earlier part of the current product sales promotion, and then the product demand level is revised based on point of sale data from a later part of the current product sales promotion.

The newly cited reference of Landvater fails to cure the deficiencies of Huang.

Landvater discloses determining a time-phased product sales forecast. In FIG. 21, Landvater discloses a process for re-projecting a promotion forecast and re-projecting planned replenishment shipments during a promotion (col. 19, lines 37-39).

Landvater, however, like Huang, fails to disclose the feature of claim 1 where the product demand level for stores associated with at least one distribution center is initially calculated based on point of sale data from an earlier part of the current product sales promotion, and then the product demand level is revised based on point of sale data from a later part of the current product sales promotion. Rather, Landvater merely discloses re-projecting a forecast at the retail store level, during a promotion, not calculating a product amount at the distribution center level during the promotion, and then revising the product demand level for a later part of the promotion.

Moreover, even if Huang and Landvater were combined, at best the combination would suggest re-projecting a forecast at the retail store level, not calculating a product amount at the distribution center level during the promotion based on POS data obtained at its retail stores during the promotion. Landvater is merely concerned with re-projecting a forecast at the retail store level during a promotion, and Huang does not disclose re-projecting

a forecast during a promotion in any manner based on POS data obtained during the promotion.

Independent claim 19

Independent claim 19 combines the features of claim 1, prior to the amendment, and claim 13. Claim 19 recites “causing, during the current product sales promotion, a computer calculation of a product component amount for the at least one distribution center based on the product amount for the at least one distribution center and a component file listing the product components of the product.” Even if Huang discloses keeping track of the amount of a product component, nowhere does Huang suggest calculating, during a current product sales promotion, a product component amount for a distribution center based on the product amount for the distribution center and a component file listing the product components of the product.

Independent claim 20

Independent claim 20 combines the features of claim 1, prior to the amendment, and claims 8 and 9. Claim 20 recites “when a predictor/predictee relationship exists between the first distribution center and a second distribution center, causing a computer calculation of a product demand level for the stores in the second distribution center for the current product sales promotion based on the product demand level calculated for the first distribution center and a predictor/predictee index value for the first and second distribution centers, wherein the product demand level for the stores in the second distribution center is calculated to be the product demand level for the stores in the first distribution center multiplied by the predictor/predictee index.”

The Patent Office recognizes that Huang and Landvater do not disclose these features of claim 20, which were incorporated from dependent claims 8 and 9, but supplies Sheldon for curing the deficiencies of Huang and Landvater. Sheldon, however, does not suggest the above quoted features of claim 20 in the context of claim 20.

Sheldon discloses in col. 8, lines 3-63, cited by the Patent Office, a forecast F of sales of a part in a store A, where the forecast F is based in part on the weighted average W of relative stores sales of the part (col. 8, lines 9-14). The weighted average W is based on weighting factors W_j , which are determined based on measures of similarity between the store A and the jth store, where similarity factors include geographic proximity, statistical correlation of the sales of the part, and common attributes of the customer base, for example (col. 8, lines 52-63).

Sheldon, however, does not suggest the feature of claim 20 of “when a predictor/predictee relationship exists between the first distribution center and a second distribution center, causing a computer calculation of a product demand level for the stores in the second distribution center for the current product sales promotion based on the product demand level calculated for the first distribution center and a predictor/predictee index value for the first and second distribution centers, wherein the product demand level for the stores in the second distribution center is calculated to be the product demand level for the stores in the first distribution center multiplied by the predictor/predictee index.” Sheldon does not disclose, in its forecast F of sales of a particular store, any predictor/predictee relationship between distribution centers. Furthermore, Sheldon does not calculate its forecast F based on either the product demand level for any distribution center or any predictor/predictee index value for two distribution centers. Finally, Sheldon necessarily does not disclose calculating its forecast F to be a product demand level for the stores in a first distribution center multiplied by a predictor/predictee index. Therefore, even if Huang and Landvater were combined with Sheldon, the combination would not have all of the features of claim 20.

The remaining references applied in the rejection of the claims were cited for other features of the claims, but fail to cure the deficiencies of Huang, Landvater and Sheldon.

The dependent claims are patentable for at least the same reasons as independent claim 1, upon which they depend, either directly or indirectly, as well as for further patentable features recited therein.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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